

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 2:04-cr-00221

TERRY WARREN,

Defendant.

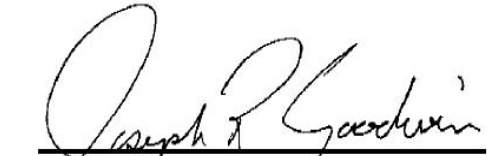
MEMORANDUM OPINION AND ORDER

Pending in this case is an appeal of the defendant's sentence. The defendant was sentenced on April 6, 2005. The defendant's appeal period expired on April 20, 2005. The defendant's excusable neglect period expired on May 20, 2005. Even though the defendant's notice of appeal was not filed until May 31, 2005, the Fourth Circuit found that the defendant filed his notice of appeal within the excusable neglect period because he sent the notice of appeal on May 14, 2005, and thus was entitled to the mailbox rule. *Houston v. Lack*, 487 U.S. 466 (1988). Accordingly, the Fourth Circuit remanded the case to this court to determine whether the defendant demonstrated excusable neglect or good cause warranting an extension of the ten-day appeal period.

On June 2, 2006, the court ordered the defendant to submit a memorandum demonstrating excusable neglect or good cause warranting an extension of the ten-day appeal period. In the order the court stated that the defendant should submit the memorandum within 30 days. The defendant has not submitted a memorandum. As a result, the court **FINDS** that the defendant has not demonstrated excusable neglect or good cause warranting an extension of the ten-day appeal period.

The court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, the United States Marshal and the Fourth Circuit Court of Appeals.

ENTER: July 18, 2006



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE